

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

David Kircher,

Plaintiff,

v.

Civil Case No. 04-72449

City of Ypsilanti, *et al.*,

Sean F. Cox

United States District Court Judge

Defendants.

ORDER DENYING
MOTION FOR ENTRY OF JUDGMENT BY JUDICIAL DEFENDANTS

Acting through counsel, attorney George Ward, Plaintiff David Kircher filed this action against multiple Defendants on July 1, 2004. The case was originally assigned to the Honorable Gerald E. Rosen.

On October 10, 2006, Judge Rosen issued: 1) an “Order Staying Case In Favor Of Parallel State Court Proceedings” (D.E. No. 37); and 2) an “Opinion And Order Regarding Defendants’ Motions to Dismiss, For Summary Judgment, And For Sanctions” (D.E. No. 38), wherein the Court dismissed the claims against Defendants Judge Donald Shelton and Judge Timothy Connors (“the Judicial Defendants”) and ruled that the Judicial Defendants were entitled to an award of Rule 11 sanctions, to be imposed against Plaintiff’s counsel.

In an Order issued on February 7, 2008, Judge Rosen denied a motion for reconsideration, that sought reconsideration of his sanction ruling, and ordered Plaintiff’s counsel to pay Rule 11 sanctions to the Judicial Defendants. (D.E. No. 49 at Pg ID 1012).

On November 9, 2016, Plaintiff filed a “Motion to End Stay and Reinstate this case to the Docket” (D.E. No. 69) and the action was reassigned to this Court following Judge Rosen’s retirement.

In an Order issued on May 12, 2017, this Court: 1) granted the motion to lift the stay and reinstated this action; and 2) granted Mr. Ward’s motion to withdraw. (D.E. No. 78). Plaintiff has since obtained new counsel.

The matter is currently before the Court on a “Motion For Entry Of Judgment By Judicial Defendants” (D.E. No. 76). In this motion, the Judicial Defendants ask the Court to exercise its discretion under Local Rule 58.1 and issue a separate judgment pertaining to the sanction award now – although Plaintiff still has claims pending against other Defendants in this action.

This Court has carefully reviewed the motion and response, and is aware of all the relevant facts and circumstances. Although this Court has the discretion, under Fed. R. Civ. P. 54(b), to issue a separate judgment in an action even though claims involving other parties are still pending in an action,¹ this Court concludes that is simply not warranted under the facts and circumstances presented here. Similarly, to the extent that Local Rule 58.1 provides the Court discretion to issue a separate judgment at this time, the Court concludes that action is not warranted.

Accordingly, the Court **ORDERS** that the Judicial Defendants’ Motion for Entry of

¹*See, e.g., Corrosioneering, Inc. v. Thyssen Env. Sys., Inc.*, 807 F.2d 1279 (6th Cir. 1986) (explaining that under Rule 54(b) the district court “acts as ‘dispatcher’” and has the discretion to determine, in the first instance, “the appropriate time when each final decision is ready for appeal” by issuance of a separate judgment.

Judgment is **DENIED**.

IT IS SO ORDERED.

Dated: June 27, 2017

s/Sean F. Cox
Sean F. Cox
U. S. District Judge

I hereby certify that on June 27, 2017, the foregoing document was served on counsel of record via electronic means and upon George E. Ward, III via First Class mail at the address below:

George E. Ward, III
Office of George Ward
43311 Joy Road, #283
Canton, MI 48187

S/J. McCoy
Case Manager